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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

In re SAB.R. et al., Persons Coming Under  
the Juvenile Court Law.

RIVERSIDE COUNTY DEPARTMENT  
OF PUBLIC SOCIAL SERVICES,

Plaintiff and Respondent,

v.

V.R. et al.,

Plaintiffs and Respondents.

E047411

(Super.Ct.No. RIJ114731)

OPINION

APPEAL from the Superior Court of Riverside County. Gary L. Vincent,  
Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Konrad S. Lee, under appointment by the Court of Appeal, for Defendant and  
Appellant V.R.

Karen J. Dodd, under appointment by the Court of Appeal, for Defendant and  
Appellant C.R.

Pamela J. Walls, County Counsel, and Prabhath D. Shettigar, Deputy County

Counsel, for Plaintiff and Respondent.

Valerie N. Lankford, under appointment by the Court of Appeal, for Minor, Sab.R.

Jennifer Mack, under appointment by the Court of Appeal, for Minors, San.R.,  
Sam.R., and C.R.

### 1. Introduction<sup>1</sup>

Mother and father<sup>2</sup> appeal from the order of dependency court terminating their parental rights to three children: San.R., born in January 1996; Sam.R., born in September 1998; and C.R., born in December 2003. An older daughter, Sab.R., born in June 1992, has a different biological father.<sup>3</sup> Sab.R. has filed a separate minor's brief objecting to her siblings being adopted. Meanwhile, the siblings' minors' brief supports their adoption by the paternal aunt.

The parents contend the dependency court erred by not correctly applying the sibling-bond exception to adoption. (§ 366.26(c)(1)(B)(v).) We reject this claim and affirm the judgment.

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<sup>1</sup> All statutory references are to the Welfare and Institutions Code.

<sup>2</sup> Father filed a notice of joinder in mother's appeal.

<sup>3</sup> Although we use initials as recommended by the Reporter of Decisions, instead of first name and last initial as provided in California Rules of Court, rule 8.400(b)(2), we agree with footnote one in *In re Edward S.* (2009) 173 Cal.App.4th 387, 392, fn. 1 criticizing this recently-adopted practice.

## 2. Factual and Procedural Background

The dependency case was initiated in June 2006. The allegations against the parents were based on events occurring between September 2005 and May 2006. The dispositional orders were issued in October 2007 and were reviewed in an appeal to this court decided in January 2009. (E044432.)

### a. Dispositional Proceedings

We briefly summarize the case history between May 2006 and October 2007. When visiting their paternal aunt, Merry R., the children told her that father had shaken and dragged C.R. and had spanked San.R. The parents had engaged in domestic violence against one another. Father used drugs and bought drugs while in the company of the children.

The original juvenile dependency petition alleged serious physical harm, failure to protect, cruelty, and abuse of sibling. (§ 300, subds. (a), (b), (i), (j).) The petition included factual allegations of domestic violence, child abuse, and substance abuse, including that father had physically abused mother and C.R. and mother had abused San.R.

At the jurisdictional hearing in April 2007, the Los Angeles dependency court sustained the allegations involving domestic violence, father's drug use, father's abuse of C.R., and mother's abuse of the children. The Los Angeles court also transferred the case to Riverside County because the parents had moved to Corona.

The disposition report concluded the children should not be placed with their parents and the children should remain in out-of-home placements—Sab.R. in a separate foster home and the other children with their aunt Merry.

In October 2007, the court made the dispositional orders, finding the minors came within section 300, subdivisions (a), (b), and (c), and reasonable services had been provided but parents had not made satisfactory progress. The court ordered reunification services but denied the parents' request to place the children in Riverside County. The parents appealed and the appeal affirmed the dispositional orders of the juvenile court.

#### b. Subsequent Proceedings

In November 2007, DPSS reported that the three younger children were living with their Aunt Merry and Sab.R. was living in a foster home. Parents were participating in weekly Saturday visits and receiving counseling. When DPSS conducted a visit of parents' home, it determined the home was suitably prepared for the children. The children were pleased at the prospect of overnight and weekend visitations with the parents.

On the other hand, the parents resisted having father participate in drug testing and mother denied any abuse had ever occurred. The parents were also not enrolled in parenting classes. DPSS concluded that "parents have not accepted responsibility for their actions and it continues to appear that they are focused on the appeal process, rather than initiating services to work towards reunifying with their children. The parents continue to deny that any type of abuse occurred in the family home. While they have

initiated services, they are not fully participating in their case plan activities and their level of cooperation is still questionable.”

In December 2007, DPSS reported parents still had not enrolled in parenting classes and had refused to participate in psychological evaluations. Father had not yet submitted to drug testing.

In January 2008, DPSS recommended reunification services be terminated. The parents had refused again to have a psychological evaluation and not started parenting classes. Father had not had a drug test. DPSS recognized the bond existing between the siblings.

Sab.R. was allowed to return to parents for an extended visit in spite of parents’ lack of compliance with their case plan. The court reinstated the condition of compliance a few days later. In March 2008, DCSS removed Sab.R. again and placed her in a foster home.

In April 2008, DPSS recommended termination of parental rights. Sab.R. did not want to live with her siblings and the paternal aunt, whom she described as “racist against Hispanics.” During a monitored visit, father had “swatted” C.R. and advised Sam.R. to kick her brother. C.R. generally responded negatively to the parents’ visits. Otherwise, the children were living successfully with their aunt. Both parents were still not participating fully in their case plans. The paternal aunt was willing and able to provide a home for the children and would also welcome Sab.R. if she wished.

On April 8, 2008, the paternal aunt and her domestic partner filed a petition asking the court to grant them de facto parent status. In it, they described a strong bond between the children. The court granted the petition in June 2008.

The contested 18-month review hearing occurred in June 2008. The court found that parents had only made minimal progress in complying with their case plan. The court terminated reunification services and set a section 366.26 hearing. In September 2008, this court denied a subsequent writ petition filed by parents. (E045960.)

In the latter part of 2008, the three children continued to live with their paternal aunt. Sam.R. and San.R. wanted to be adopted. The paternal aunt and her partner completed a favorable adoption home study.

Sab.R. was adjusted to foster care but angry at the paternal aunt and DPSS for taking away her parents. She would not interact with the paternal aunt when she dropped off the younger children.

The parents still visited the children who were happy to see them. During one visit, however, DPSS had to call 911 because of parents' hostile conduct. After that, the court ordered visits suspended. The court granted orders for sibling visits and therapy for Sab.R. and San.R. Sab.R. did not want to have sibling visits because of her antipathy toward the paternal aunt. Sab.R. also resented San.R. The social worker acknowledged there was some bond between the siblings. The paternal aunt was willing to facilitate sibling contact and also to adopt Sab.R. if she consented.

Sab.R. herself testified she was ambivalent about seeing her siblings because she wanted to detach herself from the situation. She no longer felt close to her siblings as she

had previously. But she was concerned she would never see her siblings if they were adopted.

San.R. and Sam.R. both testified they agreed with the adoption recommendation. They wanted to keep contact with their parents and with Sab.R.

The court refused to apply the sibling bond exception, reasoning that Sab.R. could live with the paternal aunt if she chose to do so and she would continue to have a relationship with the siblings. The court found the younger children adoptable and terminated parental rights. Sab.R. remained placed in foster care.

The paternal aunt agreed with court orders for sibling visits and counseling.

### 3. Discussion

As we previously noted in our January 2009 review affirming the dispositional orders, the children were removed because of the parents' domestic violence, physical abuse of the children, and father's drug use. After the dependency court ordered reunification services in June 2006, the parents refused to participate. Although the parents later expressed some willingness to follow the court's orders, they conditioned their cooperation on the children being returned to them first. The case dragged on until October 2007 mostly because of the parents' recalcitrance. Parents' behavior and conduct continued in the same vein from November 2007 until November 2008.

“The issue of sufficiency of the evidence in dependency cases is governed by the same rules that apply to all appeals. If, on the entire record, there is substantial evidence to support the findings of the juvenile court, we uphold those findings. [Citation.] We do not pass on the credibility of witnesses, attempt to resolve conflicts in the evidence or

evaluate the weight of the evidence. Rather, we draw all reasonable inferences in support of the findings, view the record most favorably to the juvenile court's order, and affirm the order even if other evidence supports a contrary conclusion. [Citation.] The appellant has the burden of showing the finding or order is not supported by substantial evidence. [Citation.]" (*In re Megan S.* (2002) 104 Cal.App.4th 247, 251.)

As is well-established, adoption is the preferred permanent plan unless an exception, like a sibling bond, applies. The parent has the burden to show termination would be detrimental to the minor. (*In re Megan S., supra*, 104 Cal.App.4th at p. 251.)

Parents now argue that the sibling bond exception should have been applied to preclude terminating parental rights for San.R., Sam.R., and C.R. because their relationship with Sab.R. might be detrimentally affected by adoption. (*In re Hector A.* (2005) 125 Cal.App.4th 783, 793-794, citing *In re L.Y.L.* (2002) 101 Cal.App.4th 942, 951-952.) In order for the exception to operate, the benefits of protecting the sibling relationship must outweigh the benefits of adoption: "[e]ven if a sibling relationship exists that is so strong that its severance would cause the child detriment, the court then weighs the benefit to the child of continuing the sibling relationship against the benefit to the child adoption would provide." (*In re L.Y.L., supra*, at pp. 952-953.)

In the present case, it was not disputed that there was a bond between the four children, although Sab.R. was ambivalent about the degree of the relationship she wanted to maintain with her siblings. The trial court recognized the existence of the bond but expressly found that the relationship between the children would not be detrimentally affected by adoption because Sab.R. could still see the other children. The court



continued its findings by determining that adoption would be in the best interests of the children. The parents argue the court was wrong because, as they speculate, the paternal aunt eventually might decide to prohibit contact with Sab.R. and the other siblings.

Other than the parents' speculation, however, there is no evidence of detriment to the three children: "[T]he burden is on the party seeking to establish the existence of [an exception] to produce that evidence. [Citation.] The appellants had to obtain a psychological study or other evidence showing [the children] would suffer detriment if separated from [Sab.R.]" (*In re Megan S.*, *supra*, 104 Cal.App.4th at p. 252.) No evidence of detriment was shown. Therefore, the dependency court's decision was sound.

Furthermore, even if there were some slight detriment, the children's interests outweigh any benefit of not being adopted. (*In re Megan S.*, *supra*, 104 Cal.App.4th at p. 282.) If parental rights are terminated, the children will gain a permanent home through adoption. If parental rights are not terminated, the children may lose the permanent home the prospective adoptive family is ready to provide. A sibling group of three older children might not be considered adoptable at a later time. Valuing a continuing relationship with Sab.R. over adoption might deprive these children of a family, which is not in their best interests.

Substantial evidence supports the court's conclusion that the benefits of adoption outweighed the benefits of continuing the children's relationship with Sab.R., even if it is assumed that termination of parental rights would result in a substantial interference with the sibling relationship. (*In re L.Y.L.*, *supra*, 101 Cal.App.4th at pp. 952-953.)

6. Disposition

We affirm the judgment of the dependency court.

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s/Gaut  
Acting P.J.

We concur:

s/King  
J.

s/Miller  
J.